



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MEMORANDUM

Date: June 17, 2016

To: Robert Best, Chairman, & Members, Planning Board

From: Jillian M. Harris, AICP, Planning & Zoning Administrator

Subject: **Jesse M. Johnson, P.E. of Bohler Engineering for Woodspring Hotel Property Management (applicant) and 4 Executive Park Drive Realty LLC. (owner)** – Review for acceptance and consideration of Final Approval for a subdivision of one lot into two lots. The parcel is located at 4 Executive Park Drive in the C-2 (General Commercial) and Aquifer Conservation Districts. Tax Map 4D, Lot 076. ***This agenda item is continued from the June 7, 2016 meeting.***

Background

Please see the June 2, 2016 Memo for background information on this subdivision proposal. Since the June 7th meeting staff has received an advisory opinion from Legal Counsel regarding the subdivision creating a non-conformity.

To summarize the opinion from Legal Counsel, they recommend that the property owner revoke the prior site plan approval under RSA 676:4-a. This can be done at the request of, or with the approval of the applicant. If the applicant is unwilling to go the revocation route, then Legal Counsel recommends following the staff's second option (as presented at the June 7th meeting) of attaching a condition subsequent to the subdivision approval that addresses the prior use. If there is an agreement between the existing and prospective property owners that the old hotel use cannot resume, that should be added as a condition as well.

The topic of access and ingress/egress easements was broached at the June 7, 2016 Planning Board meeting and staff recommends that these existing easements are clearly shown and noted on the plan set. (See attached exhibit plans submitted by the applicant on 6/17, which staff has not reviewed at this time)

Completeness

The application was accepted as complete at the June 7, 2016 Planning Board meeting.

Waivers

The applicant has not requested any waivers relative to the subdivision plans. Should any be requested, Staff recommends that they be provided in writing to the Board.

Staff recommends that the Board vote with respect to any requested waivers utilizing the criteria from RSA 674:36:

- Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; **or**

- Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Recommendation

Based on the information available to date, **staff recommends that the Board grant conditional final approval to the application with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified:**

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars;
2. The applicant shall obtain any required State approvals/permits as may be applicable, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department;
3. The applicant shall note all waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable;
4. The applicant shall provide draft copies of any applicable legal documents (including any easements) for review, at the applicant's expense, by the Town's Legal Counsel;
5. The applicant shall address forthcoming comments from Merrimack Village District, as applicable;
6. The applicant shall address forthcoming comments from the Wastewater Division, as applicable;
7. The applicant shall address the following planning staff technical comments:
 - a. Parking requirements for the parent lot hotel building shall be addressed by the applicant; either by site plan approval revocation under RSA 676:4-a and/or a note added to the subdivision plans that indicates Planning Board review and approval will be required should the building be restored to its previous use or any new use;
 - b. Applicant to revise Note 3, effective date of most recent FIRM is September 25, 2009;
 - c. Applicant to note condition from legal re: discontinuing hotel use if revocation is not agreed to.

Staff also recommends that the following general and subsequent conditions be placed on the approval:

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;

Cc: Planning Board File
Correspondence

Ec: Jack Knowles, WoodSpring Suites Merrimack NH, LLC (applicant)
James Prieto, 4 Executive Park Drive Realty (owner)
Promised Land Survey, LLS
Bohler Engineering, PE
Gregory Michael, Bernstein Shur, Sawyer & Nelson, PA
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Building Department Staff
John Manuele, Merrimack Fire Department
Dave Fredrickson, Merrimack Village District
Mark Doyle, Police Department
Kyle Fox, Public Works Department

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